



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1995

Mr. Richard D. Monroe
Deputy General Counsel for Operations
Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701-2483

OR95-855

Dear Mr. Monroe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32393.

The Texas Department of Transportation (the "department") received a request for copies of road plans, bench mark, and median information relating to a proposed bypass in Roanoke, Texas. You claim that the information is excepted from disclosure pursuant to sections 552.103 and 552.105 of the Government Code. You have submitted copies of the documents you believe to be excepted from required public disclosure.

Section 552.105 excepts from disclosure:

- (1) the location of real or personal property for a public purpose prior to public announcement of the project; or
- (2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

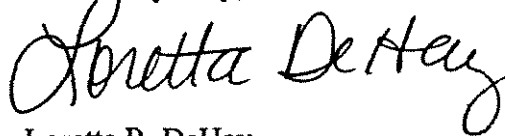
Section 552.105 is designed to protect a governmental body's planning and negotiating position with regard to particular transactions. Open Records Decision No. 564 (1990). The exception applies to *information* regarding appraisals or purchase price, not only to particular appraisal reports prepared for specific properties. *Id.* at 2. Whether a particular appraisal report falls under section 552.105(2) is a question of fact. This office will accept a governmental body's good faith determination that release of an appraisal report

would damage its future negotiating position, unless the contrary is clearly shown as a matter of law. *Id.* Section 552.105 excepts information pertaining to negotiations for the acquisition of real or personal property until the transaction has been completed. Open Records Decision No. 310 (1982). Once a transaction has been completed, all factual information related thereto is available unless excepted from disclosure by some other provision of the Open Records Act. *Id.*

We have reviewed the documents at issue. It is clear that the requested plans relate to acquisition of the property currently subject to condemnation proceedings as well as other property acquisitions required by the roadway plans. Thus, the requested documents may be withheld from disclosure pursuant to section 552.105 of the Government Code until such time as the property transactions relating to the roadway are completed.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/LMM/rho

Ref.: ID# 32393

Enclosures: Submitted documents

cc: James E. Harrington, P.E.
President
Harrington Engineering, Inc.
3023 Routh Street
Dallas, Texas 75201
(w/o enclosures)

¹Because the requested information is excepted from disclosure pursuant to section 552.105 of the Government Code, we need not consider your arguments that the information may be withheld from disclosure pursuant to section 552.103.